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THE LEAGUE OF NATIONS

Ex-President Taft Answers Senator Lodge

LETTER
OF
EX-PRESIDENT
WILLIAM HOWARD TAFT

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LETTER
OF
EX-PRESIDENT WILLIAM HOWARD TAFT.

TAFT SAYS SENATOR LODGE'S SPEECHES ARE INCONSISTENT; ANSWERS
TREATY ARGUMENTS—PURPOSES OF FIVE GREAT POWERS IN LEAGUE
TOTALLY UNLIKE THOSE OF HOLY ALLIANCE; SAYS ARTICLE 3 DOES
NOT ENLARGE POWERS AS CHARGED BY SENATOR—FORMER PRESIDENT
INTERPRETS ARTICLES 10 AND 11—DECLARES NATIONS MUST CONTINUE
LEAGUE ENTERED INTO TO CONDUCT WAR AND NOW FRAMED FOR PEACE.

“Senator LODGE's speech on the league of nations is an important event in the history of the issue over the ratification of the treaty and the covenant of the league. In point of continuous service he is the oldest Member of Congress, as he is one of the ablest, and he is the longest in experience upon the Foreign Relations Committee of the Senate. What he says, therefore, is entitled to great weight. But the Senator can not complain if those who differ with him seek to break the force of what he says by pointing out action and speech by him in the past quite inconsistent with his present attitude. Nor will he claim that his prestige and experience give his arguments and conclusions immunity from analysis and answer. Indeed, the speech of Senator WILLIAMS, impromptu as it was and marred as it was by its personal references to Mr. LODGE, answered with all the vigor of the debater much of what Mr. LODGE in his carefully prepared address had urged. Mr. WILLIAMS's remarks were directed toward the trend of Mr. LODGE's speech and his general attitude, rather than to his carefully drawn objections to particular articles of the covenant.

HOLY ALLIANCE ANALOGY FALSE.

“The first great argument of Mr. LODGE against the league was based on the analogy between this league and the holy alliance, in which he emphasized the declarations by its constituent absolute monarchs of their high purpose and noble ends in the maintenance of the alliance, and then showed that for 35 years the result of its machinations was a curse to the world.

"It needs no profound knowledge of history to realize how lacking in force and fairness such an argument by analogy is. The Holy Alliance was created for the purpose of keeping on the thrones of Europe occupants who were legitimate heirs in their divine right of ruling and of preventing revolution against them. It was a conspiracy of absolute monarchs to maintain the rule of their class.

"Mr. Lodge objects that the five great powers will control this league as the Holy Alliance was controlled. Five great powers are given large influence in the management of the policy of this league. It must be so, and it ought to be so, because they are the ones upon whom the burden of maintaining the prestige and influence of the league for good is to be heaviest. But whatever is to be done by them must be done by unanimous action. Can we conceive of the United States, Great Britain, and France, ruled by their peoples as they are, uniting to work such purposes as disgraced and broke up the Holy Alliance?

DENIES UNLIMITED POWER.

"The first provision of the league which Senator Lodge attacks is a paragraph from article 3, reading as follows:

"The assembly may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world.

"He urges that this confers unlimited power upon the league and greatly enlarges the field of action in which we shall be involved even beyond that in which the Holy Alliance was engaged. This view can not be sustained. The meaning of this paragraph is, of course, to be determined not only by the words used but also by the immediate context and its relation to the rest of the covenant.

"Article 3 is an article prescribing the organization and procedure of the assembly. Article 4 is an article performing the same office in respect to the council. They describe the membership, the times and places of the meetings, the subjects matter to be considered and dealt with at each meeting, and the voting power and number of representatives of each member for the respective bodies. The subjects matter which may be dealt with at any meeting of either are described in exactly the same

words for both bodies, to wit, 'any matter within the sphere of action of the league or affecting the peace of the world.'

"By article 5 decisions of the council must be by unanimous vote of representatives present at the meeting. The object of this language is, therefore, to notify members of the league and their representatives in the council or assembly that the whole business of the league is in order to be considered at any meeting without special notice, and that their interests may be affected in their absence. This signification is emphasized by the clause immediately following that in question in article 4, which provides that any member with no representative in the council must be invited to send a representative to any meeting at which matters affecting it are to be considered. This is not necessary in the case of the assembly, because every member has a representative in the assembly.

POWERS ARE UNCHANGED.

"The general language quoted by Senator LODGE in article 3 and the identical language in article 4 are thus merely to put members on notice of what may be considered at every meeting. In neither article is the language to be treated as an independent grant of power. The functions and powers of the assembly and the council are what they are elsewhere in the covenant defined to be, and are no greater by reason of this clause. Otherwise the assembly and the council would have the same functions and the same powers, for the language of the clause as to each is the same. Every other article of the covenant shows this not to be the case. The clause cited by Senator LODGE neither enlarges the jurisdiction of the league nor the obligations of its members beyond their specific limitation as set out in other articles.

REPLIES TO IRISH ARGUMENT.

"Again, article 11 is relied upon by the Senator to show that it is the purpose of the league to interfere to suppress rebellions and revolutions. Thus Ireland, it is thought, can be brought in. The first sentence of the article reads as follows:

"Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case

any such emergency should arise, the secretary general shall, on the request of any member of the league, forthwith summon a meeting of the council.

"The council is summoned to advise the members of the league what ought to be done, and its advice must be unanimous, and upon that advice the members are to act in their discretion and to perform their obligations under the covenant of the league as they in good faith understand them. Such a provision does not enlarge the obligations of the members; it only provides for prompt cooperation in an emergency which may be the occasion upon which under other articles of the league the members may act.

NO EFFECT ON REBELLIONS.

"Such a case, for instance, as a war between two countries not members of the league might certainly affect the peace of nations. Nor need it be denied that where internal disturbance, as a Bolshevik upturning of society, becomes militant and seeks to upturn society of neighboring nations, this might well be made a matter of concern to the whole league. But there is nothing from these words or any other part of the covenant which brings an internal rebellion or revolution within the jurisdiction of the league. 'War or threat of war' contained in article 11 means something that affects the international relations between countries. This is clearly shown by its last clause, in which it is also declared to be the fundamental right of each member of the league to bring to the attention of the assembly or of the council any circumstance whatever affecting international relations which threaten to disturb either the peace or the good understanding between nations upon which peace depends.

RESTRICTS MEMBERS' DUTIES.

"If article 11 is to have the construction which Senator Lodge maintains and is to refer to internal rebellions and revolutions, then it is very strange that the fundamental right of each member of the league is to bring to the attention of the assembly or the council under article 11 only those circumstances which disturb international relations and the peace and the good understanding between nations.

"To support his view Senator Lodge refers to the provision in the treaty with Germany which requires Poland and the Czech

and other States to make treaties with the five great powers guaranteeing the religious and other rights of minorities. This does not at all indicate a purpose on the part of the league to intervene in the internal affairs of nations generally. Poland and the Czech States are new nations born of the war and this treaty, the record of whose peoples in respect to religious intolerance and oppression of the Jews and others has not been good. But the treaty power is to be vested in untried and unrestrained majorities. It is of the highest importance to the effectiveness of the treaty that these nations be made stable bulwarks against German plots, and such a guaranty will serve to steady them.

DOES NOT ADD TO COVENANT.

"The example for such a guaranty was set in the congress of Berlin in the establishment of Roumania, Bulgaria, and Serbia as independent nations. It is a special provision, and leaves to the five great powers the obligation to enforce the guaranty in favor of minorities in countries whose birth and maintenance the signatories to the treaty who won the war are responsible. It does not in any degree enlarge the meaning of the covenant as applied to its members generally.

"Senator LODGE objects to the failure in the covenant to amplify the jurisdiction of the court provided in the league, and to provide a tribunal for hearing justiciable questions. This is a fair criticism of the league, and it is a defect in the plan—a defect which may be cured by amendment, and which, we may hope, will be so cured. In respect to justiciable questions, it would have been much better to have a judicial court, as Mr. Root pointed out, to which all members should be obliged to resort, remitting unjusticiable questions to the council.

"The first steps to be taken after the league is adopted should be to perfect its machinery in this regard. But it seems quite unwarranted to argue, as Senator LODGE does, that the action of the council or assembly in respect to justiciable questions is to be determined on political or diplomatic grounds, and not as an impartial body controlled by the principles of international law. Justiciable questions are those which in their nature are capable of settlement on principles of international law.

"The preamble recites the purpose of the league to be the 'prescription of open, just, and honorable relations between nations,' 'the firm establishment of the understandings of international law as to the actual rule of conduct among governments,' and 'the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one or another.'

"Article 13 declares as among those suitable for arbitration certain justiciable questions in language suggested by Mr. Root, as follows:

"Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach.

PROVIDES FOR ARBITRATION.

"The article imposes on parties to a dispute the duty of agreeing to submit to arbitration questions 'which they recognize as suitable for arbitration.' Even if this article be held not to require a party to a controversy to submit such justiciable questions as are here specified to arbitration, as may well be affirmatively argued, certainly it is most unwarranted to claim that when such justiciable questions are carried to the council or assembly for settlement the recommendation of that body is not to be governed by principles of international law, and the function of the tribunal in disposing of them is not to be judicial. The fact that the representatives of the parties to the dispute are to be left out of the council or assembly in reaching the needed unanimity of conclusion confirms the judicial character of the function.

"Calling for another league than this league because of this and other defects, Senator LODGE urges:

"Let us unite with the world to promote the peaceful settlement of all international disputes. Let us try to develop international law. Let us associate ourselves with other nations for these purposes.

FINDS SENATOR INCONSISTENT.

"This criticism and language sounds a bit strange coming from a Senator who helped to defeat the general arbitration treaties made between the United States and France and the United States and Great Britain, which provided for a settlement of all

justiciable issues arising between them and a means of determining whether a question arising was justiciable or not. These treaties were loaded down with such exceptions that it seemed of no use whatever to invite the acquiescence of France and Great Britain in the narrowing amendments that were insisted on in the Senate and supported and voted for by Senator LODGE.

"Senator LODGE says that the amendment to the covenant as originally reported, which excludes from the consideration of the council or the assembly any issue which by international law is purely domestic, is intended to deceive. The exception was obviously put in for the purpose of excluding immigration and tariff from among the issues which the council or assembly might consider in a dispute.

CITES SUPREME COURT RULING.

"The Supreme Court of the United States has said that it is an accepted maxim of international law that immigration is a purely domestic question, as well as the imposition of tariffs. But Senator LODGE is not willing to trust the council or the assembly to follow this accepted maxim in excluding from its jurisdiction such questions. He is afraid that one honest and impartial representative on the council can not be found who, on the plea of the United States, would uphold this accepted maxim of international law in determining the jurisdiction of the council.

"This unwillingness to assume that any other disinterested nation in the world of all the nations will be fair in dealing with the lawful rights of the United States is characteristic of the attitude of Senator LODGE and those who agree with him. Is this uniting 'with the world to promote the peaceful settlement of all international disputes'? Is this trying 'to develop international law'? Is this 'associating ourselves with other nations for these purposes'?

DEFENDS ARTICLE 10.

"Senator LODGE attacks article 10. He says it will enable the King of Arabia, Hussein, Sultan of Hejaz, to appeal to us to come and help him defend his boundary against the attacks of Arabs in his neighborhood. This is not a fair construction of article

10. All the language of article 10 should be read together. It looks to joint operation of the members of the league. It says:

"The members of the league undertake to respect and preserve ~~as~~ against external aggression the territorial integrity and existing political independence of all members of the league. In case of any such aggression or in case of any threat or danger of such aggression the council shall advise upon the means by which this obligation shall be fulfilled.

"In other words, the members are to cooperate and the council is to form a plan for their cooperation. Under that no nation will be obliged to act except upon the advice of the council, and the advice of the council would limit the extent of its obligation.

"The action of the council, however, is only advisory, and therefore it would still remain for the members in good faith to determine how far they deemed it their duty to act upon such advice under the obligations of the article. Of course, for us Congress would have to determine how far it would act upon such advice and what in its judgment was its obligation under the article to comply with such advice. It does not seem a fair construction of the article to say that it constitutes a direct obligation between a nation whose integrity or independence is attacked and every other member of the league. It is a league matter, the members responding to carry out a league purpose under the cooperating advice of the council of the league.

QUOTES JUSTICE HUGHES.

"Mr. Justice Hughes, in the reservations which he has suggested to Senator HALE, has given a very excellent construction of what this article 10 means. He says:

"Fourth. That the meaning of article 10 of the covenant of the league of nations is that the members of the league are not under any obligation to act in pursuance of said article except as they may decide to act upon the advice of the council of the league. The United States of America assumes no obligation under said article to undertake any military expedition or to employ its armed forces on land or sea unless such action is authorized by the Congress of the United States of America, which has exclusive authority to declare war or to determine for the United States of America whether there is any obligation on its part under said article, and the means or action by which any such obligation shall be fulfilled.

"Such an interpretation shows that the illustration of Senator LODGE is really fanciful. As the action of the council is to

be unanimous, and as the United States has a member on it, the character of its advice must, of course, be reasonable. Those nations in the neighborhood and more directly interested in the Arabian kingdom are the ones whom the council would doubtless advise to take action in pursuance of article 10 in such a case. The council would not attempt to draw the United States in until the trouble growing out of the disturbance bade fair to involve world consideration.

SENATOR CHANGES ATTITUDE.

"Senator LODGE objects to the United States binding itself by war or boycott to cooperate with other nations in suppressing war. This is contrary to his attitude when he delivered an address at a dinner of the League to Enforce Peace in Washington in 1916, at which both he and President Wilson agreed that it was necessary to unite the forces of the world to suppress war. Nor was his judgment at that time doubtful. On the contrary, he enforced the firmness of his conviction by the quotation from Matthew Arnold:

"Charge once more, then, and be dumb;
Let the victors when they come,
When the forts of folly fall,
Find the body by the wall.

"His present attitude is a departure, too, from the position which he took in his commencement address at Union College, in 1915, in which he said that there was no other means by which the peace of the world could be maintained except by a union of nations to enforce peace.

IGNORES OBJECT OF LEAGUE.

"Now the Senator's position is that the United States can better contribute to the peace of the world by staying out of every such union and not involving itself in any obligation to act until the occasion shall arise when it may then determine what it will do. In this he ignores the central feature of any useful league of nations to secure peace. The object of a league is to convince those who would disturb the peace of nations that if they persist in such a course the union of the nations will inflict on them the penalty of forcible restraint. Its purpose is not to make war—its purpose is to threaten the use of lawful

force to restrain lawless violence. It is the minatory, cautionary effect of the league that is essentially and highly important.

"It is this feature of the Monroe doctrine that has made it so successful. It was the knowledge that the United States would fight, if need be, to assert the doctrine that has preserved it and peace for now near a century. But if the United States is to stay out of this league and not obligate itself in any way to add to the weight and sanction of the league, then much of the usefulness of the covenant is gone.

MEANS DRIFTING POLICY.

"As Senator WILLIAMS says, the attitude of the United States in such a case is merely drifting and waiting until we are driven into a position in which we must fight, as we were driven into this war.

"More than this, the Senator's contention that the United States can do more good by staying out of the league than by going in ignores the fact that unless the United States enters the league it will cease to be a league of nations and will become only an alliance and will stimulate the formation of other alliances and future war. It is the world-surpassing strength of the United States in its intelligent people and its resources, in its military potentiality and in its comparative disinterestedness as between all other nations which makes its membership indispensable to a world league. For us to refuse to enter it is to take the responsibility of destroying its possibility. If our real interests require it, of course, we should refuse; but in determining our real interests we should face this responsibility.

SHOULD NOT FEAR DEFINITION.

"Senator LODGE objects to the reservation of the Monroe doctrine contained in the covenant. It is very difficult to understand the attitude of Senator LODGE and many others with respect to the Monroe doctrine. He says that the instant the United States, which declared, interpreted, and sustained the doctrine, ceases to be the sole judge of what it means, that instant the Monroe doctrine ceases and disappears from history and from the face of the earth. He then quotes from Theodore Roose-

vett 'that we are in honor bound to keep ourselves so prepared that the Monroe doctrine shall be accepted as immutable international law.' Senator LODGE objects to the recognition of the Monroe doctrine by anybody else. He objects to its definition. How can it become "immutable international law" unless it has definition and terms?

"The essence of law, whether municipal or international or immutable, is its definition as a rule of action. The Monroe doctrine certainly affects the relations between non-American nations and American nations. It is certainly a limitation upon the right of American nations to part with territory and independence to non-American nations and of the right of non-American nations to secure by force or bargain transfer of such territory or independence.

NOT MERE DOMESTIC POLICY.

"If it is to become immutable international law, then it must become a rule of action both for American and non-American nations. How can they act within it unless they know what it is? The doctrine is not a mere domestic policy. It relates directly to international relations between certain classes of nations. Now, the attitude of Senator LODGE and others, if one can understand them, is not that it is for us to say what those relations shall be and for us to refuse to define what those relations shall be in advance, but to decide when the occasion arises what we think they ought to be. This is to make the doctrine not immutable international law. It is to make it an arbitrary decree, *ex post facto*.

"It is the language of absolutism. It is to make the doctrine as offensive to non-American nations and to American nations other than ourselves as possible.

"For the first time we have in the covenant a full recognition of the Monroe doctrine as something which this covenant is not to affect or interfere with. Yet we even resent its recognition and decline to say what it is. Why in the name of all that is fair and reasonable should we not now interpret what it means, as we may in a reservation, and let the world which wishes to recognize and conform to it know what it is?

NO DISPUTE ON WITHDRAWAL.

"The question of withdrawal from the league, upon which Senator LODGE dwells, is not one that calls for much controversy, because there seems to be a general agreement that it may easily be interpreted by reservations to mean that the United States shall cease to be a member of the league as soon as the notice for two years expires, and that any failure on the part of the United States to comply with international law or the obligations of the league shall not prevent the cessation of membership, but only be made the basis for a claim for damages against the United States if any such exists.

"Nor is it necessary elaborately to discuss Senator LODGE's Americanism, in the maintenance of which he declares that his own country first commands his allegiance. He does not differ from most other Americans in that respect, nor does support of the covenant mark a line of distinction between false and true Americanism. It is perfectly consistent with a love of country and with a preference of the interests of one's country over those of all other nations to favor a union of nations to maintain peace.

NO LESS AMERICAN IN 1915.

"When Senator LODGE advocated this at the dinner of the League to Enforce Peace or at the commencement exercises of Union College in 1915 he was not any less an American than he is to-day. Nor are those who favor the league any less American than he is. Those who support the league think they are exalting their country in making it properly useful for the maintenance of the peace of the world, in the benefits of which their country will certainly share, and they believe they have a broader vision of the noble purposes which the United States may serve when they would have it take its stand with the other nations of the world to avoid the scourge of war and secure a peace which will work for the benefit of all.

"It should be noted that Senator LODGE does not dwell on any unconstitutional feature of the covenant. This is hardly in accord with the recitals of Senator KNOX's resolutions, which Mr. LODGE voted for in committee and reported to the Senate. He now takes the stand with Mr. Root, who also ignores the

constitutional objections. and so, I believe, does Mr. Justice Hughes.

"If there had been any doubt in anyone's mind on the subject of the constitutionality of the covenant reasonably construed, it should be removed by a perusal of the very learned and useful discussion of these issues by Senator KELLOGG in his speech, reported in the CONGRESSIONAL RECORD of August 8, and in the earlier convincing arguments of Senators McCUMBER, COLT, and McNARY.

"A noteworthy omission in Senator LODGE's speech is of any suggestion as to how the treaty with Germany is to be enforced, how the limitation of her armament is to be secured, how the stability of the nations created by the treaty can be maintained in accord with the strategic necessities of a permanent peace with Germany, luminously pointed out by Mr. LODGE in his speech on the proper scope of a treaty of peace made soon after the armistice, or how the spread of Bolshevism, which he deprecated and wished restrained, can be met.

TREATY BACKS WAR PURPOSE.

"Neither he nor any opponent of the league seems to regard the treaty of peace as something to be executed. Its chief function now is to furnish objects of critical attack. Surely the United States fought the war to achieve a great purpose. Surely the treaty of peace is to be the embodiment and clinching of that purpose. Surely the treaty imposed upon an unwilling Germany and the other treaties imposed upon reluctant Austria, Bulgaria, and Turkey will not enforce themselves. Who must enforce them, then? The nations who fought the war.

"They must continue the league entered into to conduct the war and now amended and framed to maintain the peace they won. This is the essence of the covenant, and upon it as a firm foundation the rearing of a structure protecting the world against war is a great opportunity and an easy and natural step in the advance of Christian civilization."

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